

REMARKS

Claims 1-3, and 5-15 are pending. By this Amendment, claims 1, 5, 13, and 14 are amended and claims 15 and 16 are added. No new matter is added.

Support for the amendments to claims 1, 5, 13, and 14 and new claims 15 and 16 is found in at least paragraph [0025] of the Specification.

For the following reasons, reconsideration is respectfully requested.

REJECTION UNDER 35 U.S.C. §102:

On page 2, item 4 of the Office Action, claim 14 is rejected under 35 U.S.C. §102(b) as being anticipated by Nomura et al. "Super-resolution read only memory disk with metal nanoparticles or small aperture", Jap. J. Appl. Phys. Pt 1, vol. 41(3B) pp. 1876-1879 (March/2002) (hereinafter referred to as Nomura I). The rejection is respectfully traversed.

It is respectfully submitted that Nomura I fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and rhodium metal particles, as recited in claim 14.

Instead of rhodium, Nomura I simply discloses granular films GR-1 and GR-2 with silver (Ag) particles of differing diameters (see, for example, section 2.1 of Nomura I). Nomura I is silent as to other type of particles.

Accordingly, claim 14 is patentably distinguishable over the applied reference to Nomura I. Withdrawal of the rejection is respectfully requested.

REJECTION UNDER 35 U.S.C. §103:

On page 3, item 5 of the Office Action, claims 1-3, 6-12, and 14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nomura I, in view of Nomura et al. (JP 2002-133720) (hereinafter referred to as Nomura II). The rejection is respectfully traversed.

It is respectfully submitted that Nomura I, Nomura II, or their combination, fails to disclose or suggest each and every feature of the following claims to support a prima facie case of obviousness. Specifically, Nomura I, Nomura II, or their combination, fails to disclose or suggest

a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and metal particles wherein one or more of the metal particles are derived from rhodium, or a mixture thereof, as recited in claim 1.

It is also submitted that Nomura I, Nomura II, or their combination, fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and metal particles wherein the metal particles are derived from one of rhodium and a mixture of rhodium and gold, platinum, and palladium, as recited in claim 8.

It is also submitted that Nomura I, Nomura II, or their combination, fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and rhodium metal particles, as recited in claim 14.

Instead of rhodium, Nomura I simply discloses granular films GR-1 and GR-2 with silver (Ag) particles of differing diameters (see, for example, section 2.1 of Nomura I). Nomura I is silent as to other type of particles. Also, Nomura II simply discloses metal particles of gold (Au), silver (Ag), and aluminum (Al), but is silent as to rhodium (see for example, paragraph [0007] of the machine translation of Nomura II).

Accordingly, claims 1, 8, and 14 are patentably distinguishable over the applied reference to Nomura I, Nomura II, or their combination. Additionally, claims 2, 3, 6, and 7, which depend from claim 1, and claims 9-12, which depend from claim 8, are likewise patentably distinguishable over Nomura I, Nomura II, or their combination for at least their dependence from their respective independence claims and for their added features. Withdrawal of the rejection is respectfully requested.

On page 5, item 6 of the Office Action, claims 1-3 and 5-14 are rejected under 35 U.S.C. §103(a) as being unpatentable over Nomura I, in view of Nomura II, further in view of either Ashida et al. (JP 11-213447), Yuzusu et al. (JP 10-106027), or Naruse et al. (JP 6-295471). The rejection is respectfully traversed.

It is respectfully submitted that Nomura I, Nomura II, Ashida, Yuzusu, Naruse, or their above noted combination, fails to disclose or suggest each and every feature of the following

claims to support a prima facie case of obviousness.

Specifically, the references, or their combination, fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and metal particles wherein one or more of the metal particles are derived from rhodium, or a mixture thereof, as recited in claim 1.

It is also submitted that the references, or their combination, fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and metal particles wherein the metal particles are derived from one of rhodium and a mixture of rhodium and gold, platinum, and palladium, as recited in claim 8.

It is also submitted that the references, or their combination, fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer where a ZnS-SiO₂ target and one or more metal targets were co-deposited on the substrate by sputtering to form a mixed thin film, wherein at least one of the metal targets contains rhodium, as recited in claim 13.

It is also submitted that the references, or their combination, fails to disclose or suggest a high-density readable only optical disk, comprising at least one mask layer with a super resolution near field structure, the at least one mask layer comprising a mixture of a dielectric material and rhodium metal particles, as recited in claim 14.

Instead of rhodium, Nomura I simply discloses granular films GR-1 and GR-2 with silver (Ag) particles of differing diameters (see, for example, section 2.1 of Nomura I). Nomura I is silent as to other type of particles. Also, Nomura II simply discloses metal particles of gold (Au), silver (Ag), and aluminum (Al), but is silent as to rhodium (see for example, paragraph [0007] of the machine translation of Nomura II).

Also, Ashida simply discloses Al, Ag, Au, and Cu metals, but is silent as to rhodium (see for example, paragraph [0027] of the machine translation of Ashida). Also, Yuzusu simply discloses Fe, Co, Cr, Ti, Cu, Au, Pt, Pd, Ag, Ni, V, Mo, W, and Ta, but is silent as to rhodium (see for example, paragraph [0017] of the machine translation of Yuzusu). Finally, Naruse simply discloses Au, Ag, Cu, Al, Ni, Pt, NiCr, and Co, but is silent as to rhodium (see for example, paragraph [0020] of the machine translation of Naruse)

Accordingly, claims 1, 8, 13, and 14 are patentably distinguishable over the applied references, and their combination. Additionally, claims 2, 3, 5, 6, and 7, which depend from claim 1, and claims 9-12, which depend from claim 8, are likewise patentably distinguishable over Nomura I, Nomura II, or their combination for at least their dependence from their respective independence claims and for their added features. Withdrawal of the rejection is respectfully requested.

REJECTIONS UNDER DOUBLE PATENTING:

On page 7, item 8 of the Office Action, claims 1-3 and 5-14 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-32 of U.S. Patent No. 7,087,284 (formerly Patent Application No. 10/944,421 [U.S. Patent Publication No. 2005/0079313]).

Since the claims of the instant application have not yet been indicated as allowable, it is believed that any submission of a Terminal Disclaimer or arguments as to the non-obvious nature of the claims would be premature. MPEP 804(I)(B). As such, it is respectfully requested that the Applicants be allowed to address any obviousness-type double patenting issues remaining once the rejection of the claims under 35 U.S.C. §102 and/or 103 is resolved and that the rejection be reconsidered in light of the claims and/or remarks presented above.

NEW CLAIM:

Claims 15 and 16 are patentably distinguishable over the applied references and their combination for at least their dependence from their respective independent claims, and for their added features. Consideration and allowance are respectfully requested.

CONCLUSION:

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.


If there are any additional fees associated with filing of this Amendment, please charge

the same to our Deposit Account No. 503333.

Respectfully submitted,

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